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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,895	10/15/2001	Cheol-Woong Lee	205,328	3472
826	7590	04/07/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			ALVAREZ, RAQUEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/977,895		LEE ET AL.	
	Examiner		Art Unit	
	Raquel Alvarez		3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 15 February 2006.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-5 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) 1-5 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) ☐ All b) ☐ Some * c) ☐ None of:

 1. ☐ Certified copies of the priority documents have been received.

 2. ☐ Certified copies of the priority documents have been received in Application No. _____.

 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____.
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DETAILED ACTION

1. This office action is in response to communication filed on 2/15/2006.
2. Claims 1-5 are presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 provides for the use of preventing reduction of sales in the preamble, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.
 4. Regarding claim 2, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.
- See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Wiser (6,385,596 hereinafter Wiser).

With respect to claims 1-4, Wiser teaches digital music file distributed through a computer communication network (Abstract). Producing an advertising digital music file by deteriorating or damaging a sound quality of an original music file of a record of an original music file of a record of a cooperating record cooperation (i.e. the un-encrypted versions of a song are either selected portions, or the entire song, but recorded with lesser quality, such as increased compression, different audio image or waveform and/or lower sample rate. These un-encrypted lower quality clips are available for free for previewing by the customer in order to decide whether or not to purchase the high fidelity version)(See col. 12, lines 12-15 and Figure 8); distributing the advertising digital musical file through the computer communication network (Figure 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser.

Claim 5 recites deteriorating the sound quality by converting a multi-channel sound of the original music to a single channel sound. Since, Wiser teaches using different methods of deteriorating the sound quality of the original music, such as

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different audio images, different bandwidth etc. (col. 12, lines 12-15) then it would have been obvious to have included in Wiser, the well known method of converting a multi-channel sound into a single channel sound as one of the different methods of deteriorating the sound quality of the music.

Response to Arguments

7. With respect to the claims being indefinite for not positively reciting the steps delimiting how the claims are being used for preventing reduction of sales, the Examiner wants to point out that the claims merely recite deteriorating or damaging a sound quality of an original music file but the claimed actions do not necessarily prevent reduction of sales. Therefore the 112, 2nd rejection is sustained. Correction is required.

8. Applicant didn't argue the 112, 2nd with respect to "such as" phrase that makes claim 2 indefinite. Therefore the 112, 2nd rejection is sustained. Correction is required.

9. Applicant argues that Wiser doesn't teach that the sound quality of an original music file is either deteriorated or damaged to produce an advertising digital music file. The Examiner disagrees because Wiser teaches that the original, **entire** music file is deteriorated or damaged by recording increasing **compression** and/or **lower sample rate** or by adding **descriptive information, such as cover art, lyrics**, etc. to the original song (col. 3, lines 50-63).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of contact

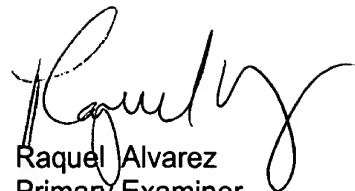
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Raquel Alvarez
Primary Examiner
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R.A.
4/4/2006